

for the period of January 1, 1995, through February 28, 1995, the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1005.13(d)(2), the words "and January and February".

#### Statement of Consideration

This rule suspends the 25 percent diversion limitation for a cooperative association for the months of January and February.

It allows a cooperative association to divert an unlimited quantity of each member producer's milk to nonpool plants if at least six days' production was delivered to a pool plant during the month. The Carolina order requires that during each of the months of July through November, January, and February, the total quantity of milk diverted to nonpool plants by a cooperative association not exceed 25 percent of the producer milk that such cooperative caused to be delivered to or diverted from such pool plants.

Carolina Virginia Milk Producers Association, a cooperative association with member producers pooled on the Alabama (Order 93), Georgia (Order 7), Tennessee Valley (Order 11), and Carolina (Order 5) Federal milk marketing orders, indicates that effective August 1, 1994, it lost Class I sales with a handler regulated under Order 7. The cooperative then gained Class I sales with a handler regulated under Order 5 effective October 1, 1994, and shifted the producer milk supply formerly associated with the Order 7 handler to Order 5. This realignment resulted in additional producer milk delivered to Carolina handlers during the summer and fall months of 1994.

The cooperative states that it is the balancing agent for its Class I customers under Order 5 for their weekly and seasonal milk supply. It asserts that the proposed suspension is necessary to accommodate pooling the anticipated production of its member producers during these months.

It is appropriate to suspend the aforesaid provision for the period of January 1, 1995, through February 28, 1995. The suspension will prevent the uneconomic and inefficient movement of producers' milk and allow producers to continue to have their milk priced and pooled under an order during these months. Thus, the Class I needs of the Carolina order should still be met.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such rule is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No comments were received.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

#### List of Subjects in 7 CFR Part 1005

Milk marketing orders.

For the reasons set forth in the preamble, the following provision in Title 7, Part 1005, is amended as follows:

#### PART 1005—MILK IN THE CAROLINA MARKETING AREA

1. The authority citation for 7 CFR Part 1005 continues to read as follows:

**Authority:** Secs. 1–19, 48 Stat 31, as amended; 7 U.S.C. 601–674.

#### § 1005.13 [Suspended in part]

2. In § 1005.13(d)(2), the words "and January and February", are suspended for the period of January 1, 1995, through February 28, 1995.

Dated: December 23, 1994.

**Patricia Jensen,**

*Acting Assistant Secretary, Marketing and Regulatory Programs.*

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#### 7 CFR Part 1032

[DA–95–04]

#### Milk in the Southern Illinois-Eastern Missouri Marketing Area; Suspension of Certain Provisions of the Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Suspension of rule.

**SUMMARY:** This document suspends a portion of the supply plant shipping requirement of the Southern Illinois-Eastern Missouri Federal milk marketing order (Order 32) for the months of December 1994 and January

1995. The suspension is necessary to ensure that producers historically associated with Order 32 will continue to have their milk pooled under the order without having to move milk uneconomically.

**EFFECTIVE DATE:** December 1, 1994, through January 31, 1995.

#### FOR FURTHER INFORMATION CONTACT:

Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932.

**SUPPLEMENTARY INFORMATION:** Prior document in this proceeding: Notice of Proposed Suspension: Issued November 21, 1994; published November 25, 1994 (59 FR 60573).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition,

provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and the order regulating the handling of milk in the Southern Illinois-Eastern Missouri marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on November 25, 1994 (59 FR 60573), concerning the proposed suspension of a portion of the supply plant shipping requirement for Order 32. The public was afforded the opportunity to comment on the notice by submitting written data, views, and arguments by December 2, 1994. Two comment letters supporting the proposed suspension were received.

After consideration of all relevant material, including the proposal in the notice, the comment received, and other available information, it is hereby found and determined that for the period of December 1, 1994, through January 31, 1995, the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1032.7(b), the words "and at least 75 percent of the total producer milk marketed in that 12-month period by such cooperative association was delivered" and the words "and physically received at".

#### Statement of Consideration

This document will suspend a portion of the supply plant shipping requirement for a cooperative association that operates a supply plant under Order 32. It will permit a supply plant operated by a cooperative association to qualify as a pool plant if the cooperative shipped 25 percent of the plant's total producer receipts to pool distributing plants during the month and milk from the plant was delivered to a pool distributing plant during each of the immediately preceding months of September through August. It removes a requirement that the cooperative must have shipped 75 percent of its milk to pool distributing plants during the September through August period.

The suspension was requested by Prairie Farms, a dairy farmer cooperative based in Carlinville, Illinois, which owns and operates four fluid milk processing plants and a cultured product/supply plant regulated under the Southern Illinois-Eastern Missouri Federal milk order. These plants are supplied by Prairie Farm's own member dairy farmers and balanced by four cooperative

associations, two of which operate supply plants.

Prairie Farms indicates that for recent months its producer milk at its plants is about 12 to 14 percent higher than the same period in 1993 from approximately the same number of producers. It states that the increased production from its members—primarily due to improved growing conditions that resulted in an abundant supply of high quality feed—has caused it to reduce purchases from other cooperative associations. As a result, it states that two pool supply plants operated by the cooperative associations barely met the shipping requirements for the month of October. Prairie Farms anticipates that a similar situation will occur in November and expects the problem to worsen in the months of December 1994 and January 1995.

Mid-America Dairymen, Inc., and Wisconsin Dairies, a cooperative which operates an Order 32 supply plant located in Waukon, Iowa, filed letters supporting the proposed suspension.

Wisconsin Dairies indicates that it has been supplying milk to Prairie Farms from the Waukon plant for 27 years. The cooperative states that shipments to Prairie Farms in October 1994 were less than 55 percent of plant receipts, compared to 66 percent during October of 1993. It states that it will be impossible for it to ship the required 40 percent in December and 50 percent in January without costly backhauls that would be difficult to justify.

The suspension request should be granted. It will continue to require Order 32 supply plants to serve the market, but at a level that should reduce or eliminate the need to make expensive and inefficient movements of milk simply to meet the supply plant shipping requirement.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties, and they were afforded opportunity to file written data, views, or arguments concerning this suspension.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

#### List of Subjects in 7 CFR Part 1032

Milk marketing orders.

For the reasons set forth in the preamble, Title 7, Part 1032, is amended as follows:

#### PART 1032—MILK IN THE SOUTHERN ILLINOIS-EASTERN MISSOURI MARKETING AREA

1. The authority citation for 7 CFR, Part 1032, continues to read as follows:

**Authority:** Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

#### § 1032.7 [Suspended in part]

2. In § 1032.7(b), the words "and at least 75 percent of the total producer milk marketed in that 12-month period by such cooperative association was delivered" and the words "and physically received at" are suspended for the period of December 1, 1994, through January 31, 1995.

Dated: December 23, 1994

**Patricia Jensen,**

*Acting Assistant Secretary, Marketing and Regulatory Programs.*

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#### Commodity Credit Corporation

#### 7 CFR Part 1434

RIN 0560–AD73

#### General Price Support Regulations for Honey

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The final rule adopts, without change, the interim rule amending the Honey Price Support Loan Program published in the **Federal Register** at 59 FR 23789–23792 on May 9, 1994. The interim rule made certain changes to the Honey Price Support Loan Program for the 1994 through the 1998 crops of honey.

**EFFECTIVE DATE:** January 4, 1995.

**FOR FURTHER INFORMATION CONTACT:** James Tegeler, Program Specialist, Consolidated Farm Service Agency (CFSA), USDA, P.O. Box 2415, Washington, DC 20013–2415; telephone 202–720–3110.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office Management and Budget (OMB).